IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

WP(C).No. 2116 of 2007(B)

PETITIONER:

AZHIKEL GOWDA SARASWATH SAMAJ
1/404, VYPEEN, COCHIN-682 510, REPRESENTED
BY ITS PRESIDENT, MR.G.JAYACHANDRA PRABHU.

BY ADV. SRI.S.R.DAYANANDA PRABHU

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED
BY ITS SECRETARY, REVENUE (SPECIAL CELL)
DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. THE TAHSILDAR,
TALUK OFFICE, KOCHI.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: COPY OF BUILDING PERMIT NO.274/95-96 DT.10.11.05 ISSUED BY SECRETARY, ELANKUNNAPUZHA GRAMA PANCHAYAT.

P2: COPY OF RAYASAPATHRA DT.17.1.96 ISSUED BY H.H.SRIMAD SUDHINDRA THIRTHA SWAMI OF KASHI MATH, VARANASI.

P3: COPY OF INVITATION LETTER DT.NIL ISSUED BY PETITIONER.

P4: COPY OF RAYASAPATRA DT.30.4.96 ISSUED BY H.H.SRIMAD RAGHAVENDRA THIRTHA SWAMI.

P5: COPY OF NOTICE DT.12.5.2000 ISSUED BY R2 IN FAVOUR OF PETITIONER.

P6: COPY OF OBJECTION DT.22.5.2000 ISSUED BY PETITIONER IN FAVOUR OF R2.

P8: COPY OF DEMAND NOTICE DT.26.5.2000 ISSUED BY R2.

P9(a): COPY OF PHOTOGRAPH OF BUILDING.

P9(b): .DO. .DO.

P10: COPY OF CERTIFICATE DT.1.7.2006 ISSUED BY SECRERARY, ELAMKUNNAPUZHA GRAMAPANCHAYAT.

P11: COPY OF JUDGMENT DT.3.7.2000 IN O.P. 18075/2000 PASSED BY HON'BLE HIGH COURT OF KERALA.

P12: COPY OF LETTER DT.4.3.2006 ISSUED BY R1 IN FAVOUR OF PETITIONER.

P13: COPY OF LETTER DT.16.5.2006 ISSUED BY PETITIONER IN FAVOUR OF R1.

P14: COPY OF NOTIFCE DT.8.6.2006 ISSUED BY R1 IN FAVOUR OF PETITINER.

P15: COPY OF LETTER DT.22.6.2006 ISSUED BY PETITIONER.

P16: COPY OF ORDER DT.30.11.2006 PASSED BY R1 IN FAVOUR OF PETITIONER.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.2116 of 2007

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Dated this the 4th day of September, 2007.

JUDGMENT

The question raised is whether the building assessed for building tax is entitled to exemption from building tax on the ground that it is used for religious purpose. This court directed the Government Pleader to get instruction from the Tahsildar. The Tahsildar has produced a marriage invitation card which shows that the building in question is let out for a marriage purpose. However, counsel for the petitioner submitted that marriage is taking place very seldom and the building is essentially used for religious functions. Obviously the building is let out when there is demand. The liability under the Building Tax Act is static irrespective of income from the building. The building is located in a place generally occupied by socially and economically backward class of persons. Therefore, I feel the petitioner though not entitled to exemption, should be given easy instalments to clear the arrears of building tax that too, without liability for interest. The W.P. is accordingly disposed of upholding assessment, but granting twelve equal monthly instalments to clear the arrears of building tax without interest and collection charges, first of which

will be paid on or before 30th of this month and the balance on or before the last day of succeeding months. Recovery proceedings will be kept in abeyance for payment as above and if petitioner commits default in payment of any instalment, the instalment facility and waiver of interest will stand automatically vacated and in that case entire tax will be recovered with interest and collection charges.

C.N.RAMACHANDRAN NAIR
Judge

pms